SENATE BILL 3166

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 56, relative to cancer treatment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following as a new section:

§ 56-7-2368.

(a) This section shall be known and may be cited as the "Cancer Treatment Fairness Act of 2010".

. (b) For the purposes of this section:

(1) “Chemotherapy” means drugs and biologics that kill cancer cells directly, including but not limited to antineoplastics, biologic response modifiers, hormone therapy, and monoclonal antibodies, that are used:

(A) To cure a specific cancer;

(B) To control tumor growth when cure is not possible;

(C) To shrink tumors before surgery or radiation therapy; or

(D) To destroy microscopic cancer cells that may be present after the known tumor is removed by surgery to prevent a possible cancer reoccurrence;

(2) "Group health plan" means an employee welfare plan as defined in the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 829; 29 U.S.C. Section 1002(1), to the extent that the plan provides medical care and includes items and services paid for as medical care

to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise;

(3) "Health insurance coverage" means health insurance coverage as such term is defined in § 56-7-2802(15);

(4) "Health insurer" means any person that provides one (1) or more health benefit policies in this state, including an insurer, a hospital and medical services corporation, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health insurance coverage subject to the authority of the department pursuant to this title;

(5) "Individual health plan" means a policy offering health insurance coverage offered to individuals other than in connection with a group health plan;

(6) “Patient out of pocket costs” means costs borne by an insured patient, in addition to premiums, including, but not limited to, deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors; and

(7) "Policy" means a written contract of insurance or written agreement for or effecting insurance, or the certificate thereof, by whatever name called, and includes all clauses, riders, endorsements, and papers which are a part thereof.

(c)

(1) A contract or policy of an insurer that provides health insurance coverage or benefits for chemotherapy, whether under an individual or group health insurance plan or policy providing coverage on an expense-incurred basis, an individual or group service contract issued by a health maintenance organization, a self-insured group

arrangement to the extent not preempted by federal law or a managed health care delivery entity of any type or description shall provide benefits and coverage for a patient's out of pocket costs related to coverage for orally administered chemotherapy on a basis no less favorable than coverage provided for intravenously administered or injected chemotherapy under the policy.

(2) A health insurer cannot achieve compliance with this section by imposing an increase in patient out of pocket costs with respect to intravenously administered or injected chemotherapy agents covered under the policy on the effective date of this act.

(3) Nothing in this section shall be interpreted to prohibit a health insurer from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

SECTION 2. This act shall take effect July 1,2010, the public welfare requiring it, and it shall apply to policies or contracts entered into or renewed on and after that date.